

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

United States of America)

v.)

Swiencinski, et al.)

Defendant)

Case No. 18-CR-368

SUBPOENA TO TESTIFY AT A HEARING OR TRIAL IN A CRIMINAL CASE

Pharms, LLC

To: c/o Samy Khalil, Counsel
 2001 Kirby Dr., Suite 1002
 Houston, TX 77019

YOU ARE COMMANDED to appear in the United States district court at the time, date, and place shown below to testify in this criminal case. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place of Appearance: U.S. Federal Building and Courthouse
 515 Rusk St.
 Houston, Texas 77002

Courtroom No.: 8C, Judge Alfred H. Bennett

Date and Time: November 7, 2022 at 9:00 AM

You must also bring with you the following documents, electronically stored information, or objects (*blank if not applicable*): Please refer to the provided subpoena attachment.

Date: 9/22/2022

Nathan Ochsner,
 CLERK OF COURT

Signature of Clerk or Deputy Clerk

The name, address, e-mail, and telephone number of the attorney representing (*name of party*) The United States of America, who requests this subpoena, are:

Devon Helfmeyer
 Trial Attorney
 Criminal Division, Fraud Section
 U.S. Department of Justice
 (202) 262-6576
 Devon.Helfmeyer@usdoj.gov

Attachment A

Definitions

1. The “Relevant Period” for this subpoena is January 1, 2013, through December 31, 2017.
2. The “Pharmacies” includes: OmniPlus Health Care, L.P. and OmniPlus GP, L.L.C.; Alternative Medicine and Pharmacy, Inc. d/b/a OmniPlus Pharmacy; Kremco Acquisitions, LLC and Kremco Pharmacy, LLC d/b/a Kremco Pharmacy; Healthy Pharmacy Solutions, Inc.; S&HT Acquisitions, LLC and Safety and Health, LLC d/b/a Accu-Care Pharmacy; OptiPlus Healthcare LLC and Omni-One-Med Pharmacy Services, LLC (collectively, “the Pharmacies”);
3. The “Entities” include: Pharms, LLC; and Rx Logistics, LLC;
4. The “Individuals” include: Scott Breimeister, Brian Swiencinski, Vladimir Redko, Dejan Milosevic, Branko Milosevic, and Leonard Carr;
5. The “Agents” include any employees or agents of the Pharmacies, the Entities, or the Individuals;
6. The “Client” includes: the Pharmacies, the Entities, the Individuals, and the Agents, or any individual or entity described above;
7. “Records” include any writing or document of any type or description, including any electronically stored information, physical item, or copy.
8. “Communications” include any and all forms of written and electronic communications in the form of text messages, chat, e-mail, voicemail, memorandum, letters, etc.
9. All Records and Communications shall be produced in a format that retains metadata, including authors, created dates, modified dates, and last modified dates.

Instructions. Provide the following:

1. All Records provided to the Client from DeBruhl and Associates;
2. All Records provided to the Client from Shands, Elbert, Gianoulakis, & Giljum, LLP (“Shands”) or Douglas W. King;

3. All memoranda, legal opinions, or reports drafted by DeBruhl and Associates for the Client and all factual information, Records, or Communications from the Client upon which such memoranda, legal opinions, or reports were based;
4. All memoranda, legal opinions, or reports drafted by Shands or Douglas W. King for the Client and all factual information, Records, or Communications from the Client upon which such memoranda, legal opinions, or reports were based;
5. Communications relating to advice sought or obtained from DeBruhl and Associates during the Relevant Period (excluding email communications during the Relevant Period in which sbreimeister@sbcglobal.net or brianski9966@gmail.com is included);
6. Communications relating to advice sought or obtained from Shands or Douglas W. King during the Relevant Period (excluding email communications during the Relevant Period in which sbreimeister@sbcglobal.net or brianski9966@gmail.com is included);
7. Any notes or memoranda created or obtained by the Client during the Relevant Period related to the legal advice provided to or sought by the Client from DeBruhl and Associates;
8. Any notes or memoranda created or obtained by the Client during the Relevant Period related to the legal advice provided to or sought by the Client from Shands or Douglas W. King; and
9. Any attorney retention letter for the Entities and the Individuals written or received during the Relevant Period.

This subpoena is not intended to call for the production of any material that is subject to a valid claim of attorney-client or other privilege recognized by the courts of the United States. To the extent you or some other party may seek to assert a claim of privilege, work product protection, or other legal claim to preclude production of material called for in this subpoena, a privilege log shall be produced **no later than October 5, 2022**. Such a log shall set forth the document title, subject matter, author(s), recipients(s), date, transmittal detail (if any), location of author(s) and recipient(s), and an explanation of the claim asserted against production. Failure to produce such a log, with sufficient detail to allow a reviewing party or court to assess whether such a claim is valid, may result in waiver of any such claim.

Business Records Affidavit by Custodian of Records

I, _____, attest, under penalties of perjury by the laws of the United States of America pursuant to 28 U.S.C. § 1746, that the information contained in this certification is true and correct.

(1) I am qualified to authenticate the records attached hereto, and described below, because I am familiar with how the records were created, managed, stored, and retrieved. I state that the records attached hereto, and described above, are true duplicates of the original records in the custody of Pharms, LLC, and maintained under Pharms, LLC's ultimate control, direction or supervision.

(2) On the dates set forth below, I sent the records listed below that were in Pharms, LLC's possession, custody, or control to _____.

Date	Description

(3) The above documents I furnished were business records created by Pharms, LLC or its employees or business associates, or were business records received and kept by Pharms, LLC or its employees or associates in the ordinary course of Pharms, LLC's business affairs. That is, the records I furnished were made at or near the time of the events recorded therein; were made on the basis of personal knowledge of the events recorded; were made or received, and kept, as part of a regular business practice.

(4) I further state that this certification is intended to satisfy Federal Rule of Evidence 902(11).

Pursuant to Title 28, United States Code, Section 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: _____

By: _____ Title/Position: _____

Mailing Address: _____

Telephone Number(s): _____

Signature: _____